

**IN THE UNITED STATES DISTRICT COURT**  
**FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**UNITED STATES OF AMERICA       :   CRIMINAL NO. 04-00364**

**:   DATE FILED: December 9, 2004**

**DENIS I. SHUSTERMAN            :**

**:   VIOLATIONS:**

**:   18 U.S.C. § 157 (bankruptcy fraud - 1 count)**

**:   18 U.S.C. § 1343 (wire fraud - 35 counts)**

**:   18 U.S.C. § 1344 (bank fraud -- 1 count)**

**:   18 U.S.C. § 1623 (perjury - 1 count)**

**:   26 U.S.C. § 7201 (tax evasion - 1 count)**

**:   26 U.S.C. § 7206(1) (false tax returns - 9**

**:   counts)**

**:   26 U.S.C. § 7206(2) (procuring presentation of**

**:   false documents to IRS - 3 counts)**

**:   28 U.S.C. § 2461(c) (notice of forfeiture - wire**

**:   fraud)**

**:   18 U.S.C. § 982(a)(2) (notice of forfeiture -**

**:   bank fraud)**

**:   Notice of additional factors**

**S U P E R S E D I N G   I N D I C T M E N T**

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**COUNT ONE**

**WIRE FRAUD**

**THE GRAND JURY CHARGES THAT:**

1. At all times relevant to this indictment:

a. Defendant DENIS I. SHUSTERMAN was an accountant. In the fall of 1996, he was hired by Leslie Edelman (“Edelman”) to serve as the chief financial officer of Nationwide Sports Distributors (“Nationwide”), a sporting goods distributor owned by Edelman which was located in Southampton, Pennsylvania. In or about March 1998, Nationwide Sports Distributors declared bankruptcy, and SHUSTERMAN was appointed the president of Nationwide and given the responsibility of closing its affairs.

b. Beginning in the fall of 1996, DENIS I. SHUSTERMAN also assisted Leslie Edelman in the financial management of other entities owned by Edelman. These entities included NSD Acquisitions dba Kimber Mfg. (referred to as “Kimber”), a firearms manufacturer located in Yonkers, New York, and Camden Ordnance, L.P., a defense contractor located in Camden, Arkansas. After Nationwide went into bankruptcy in or about March 1998, SHUSTERMAN continued to serve as the chief financial officer of Kimber, until in or about March 2003.

c. Throughout the period that he was employed by Edelman, from the fall of 1996 until in or about March 2003, DENIS I. SHUSTERMAN was responsible for all of the financial management and accounting of Kimber and Edelman’s other

entities. In part, SHUSTERMAN had control of the books, records, and depository accounts of Kimber throughout this period.

d. Throughout this period, DENIS I. SHUSTERMAN promised Edelman that he acted in Kimber and Edelman's interests.

2. Between in or about September 1996 and in or about March 2003, in the Eastern District of Pennsylvania and elsewhere, defendant

**DENIS I. SHUSTERMAN**

devised and intended to devise a scheme and artifice to defraud Edelman and companies Edelman owned, including Kimber, Nationwide, and Camden Ordnance, and to obtain money and property from all of them by means of false and fraudulent pretenses, representations, and promises, well knowing that the pretenses, representations, and promises were false and fraudulent when made.

3. It was the object of the scheme and artifice described in paragraph 2 for defendant DENIS I. SHUSTERMAN to steal money from Edelman and the companies Edelman owned, including Kimber, Nationwide, and Camden Ordnance, and to profit at Edelman's expense in financial transactions in which SHUSTERMAN falsely purported to be acting as Edelman's employee to serve Edelman's interests.

It was part of the scheme that:

### Embezzlement

4. Beginning in or about September 1996, Edelman agreed to pay DENIS I. SHUSTERMAN, and SHUSTERMAN agreed to accept, a total of \$125,000 per year as compensation for SHUSTERMAN's services as chief financial officer for Edelman's companies. In addition, in or about 1999, Edelman agreed to give SHUSTERMAN a one-time bonus of \$3 million, to reward SHUSTERMAN for his assistance in accomplishing a corporate acquisition which proved lucrative for Kimber. All of SHUSTERMAN's compensation was to be paid to M&D Consulting, Inc., an entity which supposedly was owned by SHUSTERMAN's wife but actually existed only for SHUSTERMAN's business purposes.

5. DENIS I. SHUSTERMAN consistently stole substantial additional sums from Kimber. He did so by transferring money from Kimber's accounts directly to the accounts of M&D Consulting, Inc.; by directly paying his personal creditors with funds from Kimber's accounts; and by transferring additional money from Kimber's accounts to ventures in which SHUSTERMAN had an interest, including film-making ventures such as D&S Screen Funds I, II, and III.

6. By these means, DENIS I. SHUSTERMAN stole more than \$10 million from Kimber, including approximately \$145,000 in 1997, \$300,000 in 1998, \$3.5 million in 2000, \$3.3 million in 2001, \$3.1 million in 2002, and \$300,000 during the first two months of 2003.

7. DENIS I. SHUSTERMAN spent the stolen money on other business ventures and personal benefits. In part, he spent over \$5 million of the stolen money to produce three motion pictures; invested over \$1.2 million in the creation and maintenance of a financial services firm in Philadelphia; lost over \$200,000 in aggressive stock trading; purchased a \$2.2 million home in San Diego County, California, using \$585,000 in stolen money as the entire down payment; and spent the rest of the money on a lavish lifestyle which included first-class travel, the purchase of luxury goods, and the support of a paramour.

8. DENIS I. SHUSTERMAN falsely told Edelman that SHUSTERMAN's lifestyle and business ventures apart from Kimber were supported by SHUSTERMAN's business affairs apart from his employment by Edelman, and investments by third parties in the movie productions, when in fact virtually all of SHUSTERMAN's money came from funds he took legitimately or illegitimately from Kimber.

9. DENIS I. SHUSTERMAN concealed his embezzlement from Kimber by making false entries in the books and records of Kimber. In part, he created bank reconciliations which falsely attributed to benign purposes transfers which were made to M&D Consulting and SHUSTERMAN's other interests; and created bogus invoices which he placed in Kimber's files which stated that Kimber was responsible for paying M&D \$125,000 for consulting services every two weeks.

Camden Ordnance and FUL-Line Sports Distributors

10. Prior to 1998, Leslie Edelman owned Camden Ordnance, L.P., a defense contractor located in Camden, Arkansas. In or about April 1998, he decided to sell the company, and delegated to his employee DENIS I. SHUSTERMAN the task of finding a buyer. At the same time, Edelman delegated to SHUSTERMAN the responsibility of concluding the affairs of Nationwide Sports Distributors, which declared bankruptcy in or about March 1998. SHUSTERMAN used these opportunities as part of his scheme to defraud to personally profit at Edelman's expense.

11. DENIS I. SHUSTERMAN teamed with two former employees of Edelman, Richard Malak and Jerome I. Roman (charged separately), to take over Nationwide and Camden for their mutual benefit. SHUSTERMAN kept his participation a secret, as he was continuing to act as chief financial officer for Edelman.

12. First, DENIS I. SHUSTERMAN, Malak, and Roman created a new entity called FUL-Line Sports Distributors, Inc., to take over the business of Nationwide Sports Distributors. SHUSTERMAN funded FUL-Line's business by improperly transferring over \$700,000 from the accounts of the bankrupt Nationwide entity. This action was to Edelman's substantial detriment, as most of the money was not returned in cash to Nationwide and Edelman was required to pay hundreds of thousands of dollars of his personal funds to close Nationwide's affairs.



13. DENIS I. SHUSTERMAN also used part of the money transferred from Nationwide to FUL-Line to purchase Camden Ordnance from Edelman. SHUSTERMAN falsely told Edelman that he found an independent person to buy Camden Ordnance from Edelman for \$150,000. In truth, that person was a straw purchaser located by SHUSTERMAN and Roman, who agreed to sign papers and act as a purchaser when he really had no intent of acquiring the companies or paying any money. The sum of \$150,000 which was paid to Edelman, through an attorney, actually came from Nationwide and passed through FUL-Line's account. In essence, Edelman unknowingly gave up control of Camden in return for his own money.

14. Camden Ordnance, as a defense contractor to the United States Army, was entitled to progress payments on an Army contract. Between in or about June 1998 and August 1998, as Camden Ordnance received progress payments and other funds, DENIS I. SHUSTERMAN, Roman, and Malak exercised their new control over Camden to take personal shares of the income, even though each had invested nothing in the acquisition of Camden. In particular, SHUSTERMAN's company, M&D Consulting, Inc., took \$60,000 from Camden.

15. The Camden Ordnance entity which Edelman had owned held a bank account at Bank of New York, in which funds remained, which belonged to Edelman, after Edelman relinquished control of the company. DENIS I. SHUSTERMAN

proceeded to loot that account, transferring \$20,000 to the new Camden entity and \$10,000 to M&D, and using over \$10,000 to pay credit bills for himself and his paramour.

16. Earlier, on the eve of the sale of Camden Ordnance by Edelman, DENIS I. SHUSTERMAN stole additional money. On or about March 12, 1998, as Nationwide Sports Distributors was filing for bankruptcy and Edelman's desire to divest Camden was known as well, Shusterman simply took a check from the Defense Finance and Accounting Service payable to Camden Ordnance L.P., for \$24,537.60, and put it in his M&D account.

#### The Loan to "D.H."

17. Another instance of DENIS I. SHUSTERMAN's persistent conduct in misleading Leslie Edelman for SHUSTERMAN's personal profit, as part of the scheme to defraud, involved a loan which Edelman made in or about July 2001.

18. SHUSTERMAN encouraged Edelman to lend \$2 million to D.H., a person known to the grand jury, at 11% interest. The collateral for the loan was a document which was purportedly a \$15 million certificate of deposit issued on the Cayman Islands branch of a Hong Kong bank. This certificate of deposit was counterfeit. Further, SHUSTERMAN had information which suggested that the certificate of deposit was counterfeit. Nevertheless, he concealed this information from Edelman, and instead advised Edelman that the arrangement had been thoroughly investigated and was worthy of Edelman's investment. SHUSTERMAN did so because he received, through M&D

Consulting, Inc., a \$75,000 payment from the recipient of the loan. SHUSTERMAN falsely told Edelman that he did not receive anything from the loan.

Wire Fraud

19. On or about August 10, 2000, in the Eastern District of Pennsylvania and elsewhere, the defendant,

**DENIS I. SHUSTERMAN,**

for the purpose of executing the scheme and artifice, caused to be transmitted writings, signs, and signals by means of wire communication in interstate commerce, that is, a wire transfer of \$35,000 sent from the account of NSD Acquisitions dba Kimber Mfg. at Commerce Bank/Pennsylvania, N.A. in Blue Bell, Pennsylvania, account no. 360902167, to the account of D&S Screen Fund III, at Bank of America, in Las Vegas, Nevada, account no. 4961759616.

In violation of Title 18, United States Code, Sections 1343 and 2.

**COUNT TWO**

**WIRE FRAUD**

**THE GRAND JURY FURTHER CHARGES THAT:**

1. Paragraphs 1 to 18 of Count One are incorporated here.

2. On or about August 7, 2001, in the Eastern District of Pennsylvania and elsewhere, the defendant,

**DENIS I. SHUSTERMAN,**

for the purpose of executing the scheme and artifice to defraud described in the incorporated paragraphs of Count One, caused to be transmitted writings, signs, and signals by means of wire communication in interstate commerce, that is, a wire transfer of \$75,000 sent from the account of Capital Management Holding Corp. as trustor for Capital Management Holding Co. Trust, at U.S. Bank in Santa Ana, California, account no. 153490943310, to the account of M&D Consulting, Inc., at Commerce Bank/Pennsylvania, N.A. in Blue Bell, Pennsylvania, account no. 360188163, representing SHUSTERMAN's share of the loan to "D.H." described in paragraph 18 of Count One.

In violation of Title 18, United States Code, Sections 1343 and 2.

**COUNT THREE**

**WIRE FRAUD**

**THE GRAND JURY FURTHER CHARGES THAT:**

1. Paragraphs 1 to 18 of Count One are incorporated here.

2. On or about September 21, 2001, in the Eastern District of Pennsylvania and elsewhere, the defendant,

**DENIS I. SHUSTERMAN,**

for the purpose of executing the scheme and artifice to defraud described in the incorporated paragraphs of Count One, caused to be transmitted writings, signs, and signals by means of wire communication in interstate commerce, that is, a fax sent from telephone number (215) 988-9588 in Philadelphia, Pennsylvania, to telephone number (914) 964-9340 in Yonkers, New York, which consisted of an authorization from Kimber to the Bank of New York for the transfer of \$30,000 from the account of NSD Acquisitions dba Kimber Mfg., Inc., account no. 6701188096, at Bank of New York to the account of Heritage Escrow Company in Rancho Santa Fe, California, to facilitate SHUSTERMAN's purchase of a house in California using money stolen from Kimber.

In violation of Title 18, United States Code, Sections 1343 and 2.

**COUNTS FOUR TO THIRTY-ONE**

**WIRE FRAUD**

**THE GRAND JURY FURTHER CHARGES THAT:**

1. Paragraphs 1 to 18 of Count One are incorporated here.
2. On or about the following dates, in the Eastern District of Pennsylvania and elsewhere, the defendant,

**DENIS I. SHUSTERMAN,**

for the purpose of executing the scheme and artifice to defraud described in the incorporated paragraphs of Count One, caused to be transmitted writings, signs, and signals by means of wire communication in interstate commerce, that is, the wire transfers listed below, each of which was made from the account of NSD Acquisitions dba Kimber Mfg. at Bank of New York in Yonkers, New York, account no. 6701188096, to the account of M&D Consulting, Inc. at Commerce Bank/Pennsylvania, N.A. in Blue Bell, Pennsylvania, account no. 360188163, each transmission constituting a separate count:

<b>COUNT</b>	<b>DATE</b>	<b>AMOUNT OF WIRE TRANSFER</b>
4	6-13-2000	75,000.00
5	6-19-2000	75,000.00
6	6-29-2000	75,000.00
7	7-11-2000	75,000.00
8	7-18-2000	75,000.00
9	7-26-2000	82,500.00

COUNT	DATE	AMOUNT OF WIRE TRANSFER
10	8-7-2000	100,000.00
11	8-15-2000	50,000.00
12	8-21-2000	50,000.00
13	8-28-2000	50,000.00
14	9-6-2000	75,000.00
15	9-20-2000	100,000.00
16	9-29-2000	75,000.00
17	10-16-2000	75,000.00
18	10-31-2000	75,000.00
19	12-4-2000	75,000.00
20	12-19-2000	75,000.00
21	4-4-2001	75,000.00
22	4-19-2001	75,000.00
23	4-25-2001	75,000.00
24	5-2-2001	125,000.00
25	5-25-2001	50,000.00
26	6-18-2001	75,000.00
27	8-16-2001	50,000.00
28	9-4-2001	100,000.00
29	9-19-2001	100,000.00
30	9-21-2001	50,000.00
31	9-25-2002	50,000.00

All in violation of Title 18, United States Code, Sections 1343 and 2.

**COUNTS THIRTY-TWO TO THIRTY-FIVE**

**WIRE FRAUD**

**THE GRAND JURY FURTHER CHARGES THAT:**

1. Paragraphs 1 to 18 of Count One are incorporated here.

2. On or about the following dates, in the Eastern District of Pennsylvania and elsewhere, the defendant,

**DENIS I. SHUSTERMAN,**

for the purpose of executing the scheme and artifice to defraud described in the incorporated paragraphs of Count One, caused to be transmitted writings, signs, and signals by means of wire communication in interstate commerce, that is, the fax transmissions listed below, each of which was sent from telephone number (914) 964-9340 in Yonkers, New York, to telephone number (610) 236-4196 in Reading, Pennsylvania, and consisted of an authorization from Kimber to Millennium Bank directing the transfer of funds from the account of Kimber Mfg., Inc., account no. 103044749, at Millennium Bank to the account of M&D Consulting, Inc., account no. 360188163, at Commerce Bank/Pennsylvania, N.A., each transmission constituting a separate count:



COUNT	DATE OF FAX	AMOUNT OF WIRE TRANSFER
32	9-17-2002	151,000.00
33	9-24-2002	70,000.00
34	10-9-2002	75,000.00
35	10-15-2002	86,000.00

All in violation of Title 18, United States Code, Sections 1343 and 2.

**COUNT THIRTY-SIX**

**BANKRUPTCY FRAUD**

**THE GRAND JURY FURTHER CHARGES THAT:**

1. From on or about March 15, 1999, to on or about November 22, 2000, in the Eastern District of Pennsylvania, defendant

**DENIS I. SHUSTERMAN**

devised and intended to devise a scheme to defraud the Internal Revenue Service.

2. It was part of the scheme that:

a. During 1992 and 1993, defendant DENIS I. SHUSTERMAN was one of the partners of Coventry Market at Melrose Park, L.P. and Coventry Deli & Restaurant, L.P. (collectively referred to as "Coventry"), which operated delicatessen/restaurants located in Melrose Park, Pennsylvania and New Britain, Pennsylvania. The Coventry venture ended in or about 1993.

b. After the closing of the Coventry venture, the Internal Revenue Service alleged that Coventry had withheld employment taxes from employees' wages but failed to pay those monies to the IRS. The IRS endeavored to collect these funds under Section 6672 of the Internal Revenue Code.

c. On or about April 24, 1995, the IRS assessed a trust fund recovery penalty against, among others, DENIS I. SHUSTERMAN, as a responsible officer of Coventry Deli & Restaurant, L.P., seeking payment of \$55,615.72, representing

the unpaid employment trust fund taxes of Coventry Deli & Restaurant, L.P. for July 1, 1992 through December 31, 1993.

d. On or about February 24, 1996, the IRS assessed a trust fund recovery penalty against, among others, DENIS I. SHUSTERMAN, as a responsible officer of Coventry Market at Melrose Park, L.P., seeking payment of \$195,249.96, representing the unpaid trust fund taxes of Coventry Market at Melrose Park, L.P. for October 1, 1992 through December 31, 1993.

e. On or about June 2, 1997, the IRS filed a tax lien against DENIS I. SHUSTERMAN in Montgomery County, Pennsylvania, in the amount of \$249,469.68, with respect to the two assessments described above. This sum represented the total of the two assessments described above, less a \$1,396 refund for an earlier period. SHUSTERMAN consistently contested these assessments.

f. On or about March 16, 1999, DENIS I. SHUSTERMAN filed for bankruptcy in the United States Bankruptcy Court for the Eastern District of Pennsylvania, case number 99-13366 SR, under Chapter 13 of the Bankruptcy Code. His purpose was to force a resolution of the IRS' claim that he was responsible for the trust fund recovery assessments. In the bankruptcy case, the IRS filed a proof of claim seeking \$312,151.11, which was the existing balance of the two assessments after interest was added and a payment by another responsible party was credited. SHUSTERMAN then filed an adversary action attesting that he was not responsible for any payment to the IRS.

g. DENIS I. SHUSTERMAN entered into settlement discussions with the IRS. In these discussions, and in statements given under oath in court filings and a deposition conducted on or about February 9, 2000, SHUSTERMAN falsely attested that he could not afford to pay the IRS all that it claimed.

h. In the bankruptcy schedules, which DENIS I. SHUSTERMAN signed under penalty of perjury on or about March 15, 1999, SHUSTERMAN falsely stated that he was self-employed as an accountant, and earned \$10,000 per month. He stated that he earned \$120,000 in 1997, \$120,000 in 1998, and \$25,000 during the first 2½ months of 1999.

i. At the deposition on or about February 9, 2000, DENIS I. SHUSTERMAN testified that he continued to earn \$10,000 per month.

j. In truth, DENIS I. SHUSTERMAN had income of over \$260,000 in 1997, over \$330,000 in 1998, and approximately \$2.3 million in 1999, all from Kimber and related entities. In part, by March 15, 1999, the date of the bankruptcy schedules, SHUSTERMAN had taken at least \$262,787 from Kimber just since January 1, 1999. During the six-month period preceding the deposition on February 9, 2000, SHUSTERMAN consistently took more than \$200,000 from Kimber every month.

k. On the basis of DENIS I. SHUSTERMAN's false claims regarding his allegedly limited means, the IRS agreed to settle and compromise its claim seeking payment of \$312,151.11. It agreed to dismiss its claim in return for a payment of

\$127,561, which SHUSTERMAN then paid between May and November 2000.

SHUSTERMAN falsely told an IRS representative that he borrowed money from his father in order to pay the settlement. The IRS would not have agreed to waive the payment of the balance of the funds (at least \$184,590.11) had it known the true facts regarding SHUSTERMAN's finances.

1. The bankruptcy case was then dismissed on or about July 14, 2000.

3. From on or about March 16, 1999 to on or about July 14, 2000, the bankruptcy case of In re Denis Shusterman, docket no. 99-13366 SR, was pending in the United States Bankruptcy Court for the Eastern District of Pennsylvania.

4. On or about February 9, 2000, in the Eastern District of Pennsylvania, for the purpose of executing this scheme and attempting to do so, defendant

**DENIS I. SHUSTERMAN**

made a false and fraudulent representation concerning and in relation to the bankruptcy proceeding, in that SHUSTERMAN provided false testimony about his income and means.

In violation of Title 18, United States Code, Section 157(3).

**COUNT THIRTY-SEVEN**

**PERJURY**

**THE GRAND JURY FURTHER CHARGES THAT:**

1. Paragraphs 1 through 3 of Count Thirty-Six are incorporated here.

2. On or about February 9, 2000, in the Eastern District of Pennsylvania,

defendant

**DENIS I. SHUSTERMAN,**

while under oath and testifying in a proceeding pending in the United States Bankruptcy Court for the Eastern District of Pennsylvania, knowingly made a false material declaration.

3. On that date, DENIS I. SHUSTERMAN testified under oath in a deposition in the bankruptcy matter of In re Denis I. Shusterman, case no. 99-13366 SR, and in particular with respect to an adversary action ancillary to that bankruptcy proceeding, captioned Denis Shusterman v. U.S. Department of the Treasury, Internal Revenue Service, adversary action no. 99-0851. The deposition was taken by an attorney representing the Tax Division of the United States Department of Justice.

4. The pending actions concerned DENIS I. SHUSTERMAN's responsibility and ability to pay for taxes, interest, and penalties totaling \$312,151.11 claimed by the Internal Revenue Service. It was material to this matter to determine SHUSTERMAN's resources and income at the time.

5. With respect to this material matter, DENIS I. SHUSTERMAN testified as follows, at page 83 of the transcript:

Q. Who makes the monthly mortgage payments now?

A. Well, I write the family checks if that's what you're talking about. As I reflected on my schedules, I earn about \$10,000 a month.

Q. So, it's paid from the family earnings?

A. From the family earnings.

Q. So, you make \$10,000 a month, about \$120,000 for the year?

A. That's correct.

DENIS I. SHUSTERMAN further testified, at pages 86 and 87 of the transcript:

Q. How do you separate work you're doing for Shusterman & Davis versus work you're doing for M&D?

A. M&D has specifically one client that I consult for as an acting officer, chief financial officer for them. And I have some other outside clients that I've had that my accounting partners know about. I get paid from them directly through that company.

Q. What's the primary client?

A. The primary client is call NSD Acquisitions.

Q. Exactly what type of services do you provide?

A. Financial consulting.

Q. Any particular issue or just a variety of financial issues?

A. The whole gamut of issues.

Q. What is your compensation for those services?

A. I approximately get \$7,000.00 to \$8,000.00 a month compensation for my consulting services.

Q. Is that \$7,000.00 or \$8,000.000 a month --

A. That's part of that \$10,000.00.

Q. So, the \$10,000.00 refers to M&D and to Shusterman & Davis?

A. Yes; all the income that is derived.

6. In this testimony, DENIS I. SHUSTERMAN testified that at the time he filed his bankruptcy petition on or about March 15, 1999, and at the time of the deposition on February 9, 2000, he earned \$10,000 per month, including \$7,000 or \$8,000 per month which he received from NSD Acquisitions dba Kimber Mfg. ("Kimber") for consulting services. This testimony of DENIS I. SHUSTERMAN, as he then and there well knew and believed, was false, in that, at the time of the bankruptcy filing in March 1999, SHUSTERMAN was receiving more than \$100,000 per month from Kimber, and by the time of the deposition on February 9, 2000, SHUSTERMAN was receiving substantially more than \$200,000 per month from Kimber.

In violation of Title 18, United States Code, Section 1623.



**COUNT THIRTY-EIGHT**

**BANK FRAUD**

**THE GRAND JURY FURTHER CHARGES THAT:**

1. At all times relevant to this indictment:

a. Defendant DENIS I. SHUSTERMAN operated a company called M&D Consulting, Inc., whose primary business consisted of providing SHUSTERMAN's services as a chief financial officer to Kimber, a company described in paragraph 1 of Count One of this indictment.

b. The owner of Kimber agreed to pay DENIS I. SHUSTERMAN \$125,000 per year, beginning in or about September 1996, along with a substantial one-time bonus which was paid in 1999 and early 2000. However, SHUSTERMAN, using his control as chief financial officer of Kimber's accounts, embezzled substantial funds from Kimber in excess of the amounts to which he was entitled. These funds were transferred to M&D Consulting, Inc. or to movie-making ventures which SHUSTERMAN controlled, or to directly pay SHUSTERMAN's creditors.

c. SHUSTERMAN informed various governmental entities that M&D Consulting, Inc. was owned by his wife, and that she was president of the company. In fact, his wife had no involvement at all in the affairs of M&D Consulting, Inc., and was employed prior to September 2001 as a synagogue preschool teacher and a summer camp dance instructor. DENIS I. SHUSTERMAN had placed that entity and his

other assets in her name only to avoid seizure of his assets through a tax lien placed against him by the Internal Revenue Service in or about June 1997, and to evade ongoing tax liabilities. In addition, DENIS I. SHUSTERMAN obtained assets in his wife's name because his credit was adversely affected by a personal bankruptcy he filed in or about March 1999 in an effort to resolve the outstanding tax lien.

d. Prior to in or about September 2001, SHUSTERMAN resided in Fort Washington, Montgomery County, Pennsylvania with his wife and their children. In or about September 2001, the family moved to Rancho Santa Fe, San Diego County, California. SHUSTERMAN continued to work for Kimber as chief financial officer.

e. Millennium Bank was a financial institution located in Malvern, Pennsylvania, the deposits of which were insured by the Federal Deposit Insurance Corporation.

2. Between in or about July 2001 and in or about December 2001, in the Eastern District of Pennsylvania, defendant

**DENIS I. SHUSTERMAN**

knowingly engaged in a scheme to defraud Millennium Bank, and to obtain money belonging to and under the custody and control of Millennium Bank by means of false and fraudulent pretenses, representations, and promises.

3. It was part of the scheme that defendant DENIS I. SHUSTERMAN obtained a mortgage loan from Millennium Bank in the amount of \$1,702,500 by making

false statements about his finances, a loan which Millennium Bank would not have extended had it been given the truthful information it requested.

4. In furtherance of the scheme and to achieve its objects, defendant DENIS I. SHUSTERMAN did or caused, in part, the following:

a. In the summer of 2001, DENIS I. SHUSTERMAN and his wife agreed to purchase a house located at 17046 Circa Oriente, in Rancho Santa Fe, San Diego County, California. The purchase price was \$2,270,000, of which DENIS I. SHUSTERMAN made a down payment of \$585,000. The house was to be titled in the name of SHUSTERMAN's wife alone, and on her behalf, DENIS I. SHUSTERMAN applied to Millennium Bank for a loan for the balance.

b. The down payment of \$585,000 was stolen by DENIS I. SHUSTERMAN from Kimber, by transferring the funds from its accounts to an account of M&D Consulting, Inc. at Commerce Bank in Blue Bell, Pennsylvania, from which the funds were ultimately transferred to the account of the escrow agent for the sale of the Rancho Santa Fe home; and by transferring funds directly from an account of Kimber to the escrow agent.

c. On or about September 10, 2001, in response to a request for information from Millennium Bank and its lending subsidiary as part of the bank's consideration of the loan request, DENIS I. SHUSTERMAN wrote: "please be advised that the proceeds for the down payment for the house will be from current income, as well

as the liquidation of the movie interest in D&S Screen Fund II.” This statement was false, as DENIS I. SHUSTERMAN knew, as the down payment in fact was stolen directly from Kimber, and he had no legitimate assets which could be used for the down payment.

d. On or about September 20, 2001, DENIS I. SHUSTERMAN provided a description to Millennium Bank of M&D’s business, stating: “Pursuant to your request, I am writing this letter to advise you of the business services that M&D Consulting provides to its customers. M&D Consulting is a financial services company that provides full tax, accounting, estate planning, financial planning, for closely held corporations, and their owners. The company also provides contracted Chief Financial Officer services as a way of helping our clients, and providing an independent view of their financial situation.” This statement was false and misleading in suggesting that M&D provided these services to multiple clients, when in fact M&D’s only activity at the time in providing chief financial officer services was in providing DENIS I. SHUSTERMAN’s services to Kimber at a rate of compensation which was supposed to be \$125,000 per year.

e. On or about September 20, 2001, DENIS I. SHUSTERMAN also provided to Millennium Bank, in order to justify the loan, what he described as a draft copy of M&D Consulting’s balance sheet and income statement for the seven months

ending July 31, 2001. The assets claimed on the balance sheet consisted almost entirely of approximately \$4 million in uncollectible investments in various entities.

f. On or about September 26, 2001, DENIS I. SHUSTERMAN's wife, at his instigation, signed a financial statement which falsely stated that the down payment of \$585,000 came from "savings." The financial statement further falsely represented that she had been self-employed at M&D Consulting for six years, earning \$72,649 per month.

g. DENIS I. SHUSTERMAN also provided to Millennium Bank what he purported to be his and his wife's personal income tax returns for 1999 and 2000, which showed income commensurate with the representations he made to the bank about their finances. In truth, these returns were false and had not been filed with the Internal Revenue Service as of the time that copies were submitted to the bank.

h. Had Millennium Bank been aware of the true facts regarding the income, finances, and operation of M&D Consulting, the source of the down payment, and the tax compliance of DENIS I. SHUSTERMAN and his wife, it would not have agreed to make the loan for \$1,702,500.

All in violation of Title 18, United States Code, Section 1344.

**COUNT THIRTY-NINE**

**TAX EVASION**

**THE GRAND JURY FURTHER CHARGES THAT:**

1. Between on or about September 1, 1996, and the date of this indictment, in the Eastern District of Pennsylvania and elsewhere, defendant

**DENIS I. SHUSTERMAN**

willfully engaged in a continuing attempt to evade and defeat a large part of the tax due and owing by him and his spouse to the United States of America for the calendar years 1997 through 2003, through various means. As a result of this course of conduct, SHUSTERMAN evaded the payment of more than \$1 million in federal income taxes.

2. As part of this attempt to evade federal income taxes, DENIS I. SHUSTERMAN did the following:

a. He created an S corporation under the name of M&D Consulting, Inc., and stated that it was solely owned by his wife. In truth, M&D Consulting existed to provide DENIS I. SHUSTERMAN's services as an accountant and chief financial officer to others, and his wife had no role in any of its affairs, record-keeping, or tax filing.

b. In or about September 1996, SHUSTERMAN opened a checking account at CoreStates Bank in the name of M&D Consulting, Inc., at the same time that he commenced employment with Nationwide Sports Distributors for \$125,000 per year. In or about August 1998, SHUSTERMAN opened an identical account at Commerce

Bank, and soon ceased to use the CoreStates account and used the Commerce account instead. Throughout the period of time relevant to this indictment, SHUSTERMAN arranged for most of his considerable income, from Nationwide and related companies, to be deposited in one of these M&D checking accounts, and then used these funds to pay both business and personal expenses. He used the funds to pay numerous personal expenses for items such as home improvement, household maintenance, home utilities, household furnishings, and home decor; repayment of personal loans; clothing; personal travel; and the support of a paramour.

c. The use of the M&D vehicle was designed both to make more difficult the IRS' assessment of SHUSTERMAN's personal tax liability, and to gain impermissible deductions of personal expenses. SHUSTERMAN deducted on the tax returns of M&D Consulting many of the payments from the M&D checking accounts which were actually for nondeductible personal expenditures, and also deducted charges for personal expenses placed on credit cards which he paid with checks from the M&D checking accounts.

d. SHUSTERMAN also arranged for a portion of his income to be paid by having the company for which he primarily worked during the period relevant to this indictment, NSD Acquisitions dba Kimber Mfg. ("Kimber"), pay substantial sums directly to SHUSTERMAN's creditors, including credit card issuers, and to ventures which SHUSTERMAN controlled other than M&D Consulting, Inc. In this fashion,

SHUSTERMAN endeavored to conceal substantial income from the IRS. Specifically, SHUSTERMAN took more than \$18 million from Kimber between September 1996 and March 2003. Of this amount, more than \$16.6 million was directed to M&D Consulting; more than \$1 million was given directly to film-making ventures which SHUSTERMAN controlled; over \$570,000 was paid directly to SHUSTERMAN's credit card issuers; and over \$130,000 was given directly to assorted other creditors of SHUSTERMAN. Virtually nothing was paid to SHUSTERMAN himself.

e. SHUSTERMAN engaged in a pattern of failing to file tax returns, and filed returns years late only when pressured to do so by federal authorities. He then filed returns, for both M&D Consulting, Inc. and himself, which were false as to material matters such as income and deductions, in order to reduce his tax liability. For the same purpose, he also made statements to the IRS claiming that taxes owed had been paid, when that was not true.

3. As part of his attempt to evade federal income taxes, DENIS I.

SHUSTERMAN committed the following affirmative acts:

a. In or about September 1996, SHUSTERMAN opened a checking account at CoreStates Bank in the name of M&D Consulting, Inc., at the same time that he commenced employment with Nationwide Sports Distributors for \$125,000 per year. He subsequently deposited his income from Nationwide in this account, and paid both



business and personal expenses from the account. He continued to use the CoreStates account until in or about September 1998.

b. In or about August 1998, SHUSTERMAN opened a checking account at Commerce Bank in the name of M&D Consulting, Inc. From that time until the end of 2003, SHUSTERMAN deposited most of his considerable income into this account, and used the funds to pay both business and personal expenses from the account.

c. With respect to the 1997 tax year, SHUSTERMAN did not file a personal tax return, Form 1040, which was due on or about April 15, 1998, until on or about April 5, 2000, when compelled to do so in order to settle a separate action he filed against the IRS to resolve earlier tax liabilities. The return falsely stated adjusted gross income of \$134,934, which was significantly less than SHUSTERMAN's actual income. The reported income included \$113,569 in Schedule E (other business) income passed through by M&D Consulting, Inc. However, no corresponding M&D return was filed at the same time, making it impossible for the IRS to explore the veracity of the Schedule E claim.

d. SHUSTERMAN did not file the 1997 M&D Consulting, Inc. return, Form 1120S, until on or about March 14, 2003. He did so only because, one week earlier, a federal prosecutor advised his attorneys that no 1997 M&D return had ever been filed, and that this failure to file was the subject of a criminal investigation. On or about March 13, 2003, SHUSTERMAN directed an attorney to submit the 1997 M&D return to

the IRS, and make the false claim that the return had been filed earlier but apparently lost by the IRS. Further, the 1997 M&D return which was then submitted was materially false, in that it claimed \$168,769 in receipts from Kimber, which was substantially less than the true amount, and included the improper deduction of more than \$40,000 in personal expenses.

e. With respect to the 1998 tax year, SHUSTERMAN did not file either his personal or M&D returns until on or about March 14, 2003, one week after a federal prosecutor advised his attorneys that neither return, each of which was due on or about April 15, 1999, had ever been filed, and that this failure to file was the subject of a criminal investigation. On or about March 13, 2003, SHUSTERMAN directed an attorney to send the 1998 returns to the IRS, and make the false claim that the returns had been filed earlier but apparently lost by the IRS.

f. SHUSTERMAN filed returns for 1998 which were materially false. The M&D return for 1998, filed in March 2003, reported receipts from Kimber of \$328,763, which was substantially less than the true amount, and also included the improper deduction of more than \$80,000 in personal expenses. SHUSTERMAN's personal return for 1998 stated adjusted gross income of \$216,582, which was substantially less than the true amount. Based on that claim, the personal return stated that the tax owed was \$50,752. That money was never been paid to the IRS. In March

2003, SHUSTERMAN used the false pretense that the returns were filed earlier, and lost by the IRS, in order to continue to evade payment of any tax for 1998.

g. With respect to the 1999 tax year, SHUSTERMAN filed the M&D return on or about April 5, 2001, approximately one year late. The return listed gross receipts from Kimber of \$1,996,244, which was substantially less than the true amount, and also improperly claimed deductions for personal expenses. The return also substantially overstated SHUSTERMAN's automobile and charitable expenditures, ultimately resulting in an improper deduction on his personal return.

h. SHUSTERMAN failed to file a 1999 personal tax return, Form 1040, until on or about February 6, 2003, after he and his wife were notified by the IRS that no Form 1040 for 1999, which was due on or about April 17, 2000, had ever been filed and that a deficiency was being assessed against them. After receiving this notice, SHUSTERMAN directed an attorney to submit the 1999 Form 1040, and to falsely state to the IRS that the return had been filed but apparently lost by the IRS two years earlier.

i. SHUSTERMAN submitted a 1999 personal return on or about February 6, 2003, which stated adjusted gross income of \$946,056, and substantial deductions. The income was understated and the deductions were overstated. The return stated that SHUSTERMAN owed \$337,197 in personal income tax, which was never paid. In February 2003, SHUSTERMAN used the false pretense that the return was filed earlier, and lost by the IRS, in order to continue to evade payment of any tax for 1999.

j. With respect to the 2000 tax year, SHUSTERMAN did not file either his personal or M&D returns, which were due on or about April 16, 2001, until the summer of 2002, after he was aware that he was under criminal investigation.

k. SHUSTERMAN filed a 2000 return, Form 1120S, for M&D Consulting, on or about June 17, 2002, which stated an incorrect sum of gross receipts, claimed as business losses items which were actually non-business expenditures, and improperly deducted other personal expenses.

l. SHUSTERMAN filed a 2000 personal joint return, Form 1040, on or about July 2, 2000, which stated an inaccurate adjusted gross income. Moreover, the return stated that the total tax owed was \$323,685, and that \$125,000 of that sum had previously been paid in estimated tax payments. That representation was false, in that SHUSTERMAN had previously made an estimated tax payment for 2000 of only \$25,000, and he used this false representation to evade the payment of \$100,000 in income taxes.

m. With respect to the 2001 tax year, SHUSTERMAN did not file a return, Form 1120S, for M&D Consulting, Inc., which was due on or about April 15, 2002, until on or about February 7, 2003, after he was aware that he was under criminal investigation. Further, this return stated an incorrect sum of gross receipts, claimed as business losses items which were actually non-business expenditures, and improperly deducted other personal expenses.

n. The 2001 M&D return claimed net income of \$1,242,013, which should have been passed on to and reported as income by SHUSTERMAN and his wife on their personal joint Form 1040. However, SHUSTERMAN failed to file any personal income tax return for 2001. Accordingly, with the exception of \$55,000 in taxes withheld from SHUSTERMAN and his wife by a payroll service during 2001, SHUSTERMAN evaded the payment of personal income tax for 2001 on his income of at least \$1.2 million.

o. With respect to the 2002 tax year, SHUSTERMAN received over \$3.2 million from Kimber and other sources during that year, but never filed any Form 1120S for M&D Consulting, Inc. On or about January 9, 2004, close to nine months late, SHUSTERMAN filed a personal income tax return, Form 1040, for 2002, which falsely stated that he and his wife had only \$398,905 in 2002 adjusted gross income. SHUSTERMAN did not pay income tax on the bulk of his 2002 income.

p. With respect to the 2003 tax year, SHUSTERMAN received over \$350,000 in income from Kimber and other sources, but did not file any return for M&D Consulting, Inc., or for himself and his wife; such returns were due on or about April 15, 2004.

All in violation of Title 26, United States Code, Section 7201.

**COUNT FORTY**

**FALSE TAX RETURN -- 1997 M&D RETURN**

**THE GRAND JURY FURTHER CHARGES THAT:**

On or about March 14, 2003, in the Eastern District of Pennsylvania and elsewhere, defendant

**DENIS I. SHUSTERMAN**

willfully made and subscribed a United States Income Tax Return for S Corporation, Form 1120S, for the calendar year 1997, for M&D Consulting, Inc., 1515 Market Street, Suite 600, Philadelphia, PA 19102, which was verified by a written declaration that it was made under the penalty of perjury and filed with the Internal Revenue Service, which defendant DENIS I. SHUSTERMAN did not believe to be true and correct as to every material matter, in that the return substantially underreported the gross receipts of M&D Consulting, Inc. and improperly deducted as business expenses expenditures which were actually for nondeductible personal purposes. Specifically, the return reported gross receipts of \$168,769, when the true receipts totaled in excess of \$250,000; and the return claimed total deductions of \$55,201, of which more than \$40,000 was for nondeductible personal expenses.

In violation of Title 26, United States Code, Section 7206(1).

**COUNT FORTY-ONE**

**FALSE TAX RETURN -- 1997 PERSONAL RETURN**

**THE GRAND JURY FURTHER CHARGES THAT:**

On or about April 5, 2000, in the Eastern District of Pennsylvania,  
defendant

**DENIS I. SHUSTERMAN**

willfully made and subscribed a United States Individual Income Tax Return, Form 1040, for the calendar year 1997, for himself and his wife, which was verified by a written declaration that it was made under the penalty of perjury and filed with the Internal Revenue Service, which defendant DENIS I. SHUSTERMAN did not believe to be true and correct as to every material matter, in that the return reported adjusted gross income of \$134,934, which was substantially less than the true amount which SHUSTERMAN received through his operation of M&D Consulting, Inc. and his other income.

In violation of Title 26, United States Code, Section 7206(1).

**COUNT FORTY-TWO**

**FALSE TAX RETURN -- 1998 M&D RETURN**

**THE GRAND JURY FURTHER CHARGES THAT:**

On or about March 14, 2003, in the Eastern District of Pennsylvania and elsewhere, defendant

**DENIS I. SHUSTERMAN**

willfully made and subscribed a United States Income Tax Return for S Corporation, Form 1120S, for the calendar year 1998, for M&D Consulting, Inc., 1515 Market Street, Suite 600, Philadelphia, PA 19102, which was verified by a written declaration that it was made under the penalty of perjury and filed with the Internal Revenue Service, which defendant DENIS I. SHUSTERMAN did not believe to be true and correct as to every material matter, in that the return substantially underreported the gross receipts of M&D Consulting, Inc. and improperly deducted as business expenses expenditures which were actually for nondeductible personal purposes. Specifically, the return reported gross receipts of \$328,673, when the true receipts totaled in excess of \$400,000; and the return claimed total deductions of \$109,145, of which more than \$80,000 was for nondeductible personal expenses.

In violation of Title 26, United States Code, Section 7206(1).



**COUNT FORTY-THREE**

**FALSE TAX RETURN -- 1998 PERSONAL RETURN**

**THE GRAND JURY FURTHER CHARGES THAT:**

On or about March 14, 2003, in the Eastern District of Pennsylvania and elsewhere, defendant

**DENIS I. SHUSTERMAN**

willfully made and subscribed a United States Individual Income Tax Return, Form 1040, for the calendar year 1998, for himself and his wife, which was verified by a written declaration that it was made under the penalty of perjury and filed with the Internal Revenue Service, which defendant DENIS I. SHUSTERMAN did not believe to be true and correct as to every material matter, in that the return reported adjusted gross income of \$216,582, which was substantially less than the true amount which SHUSTERMAN received through his operation of M&D Consulting, Inc. and his other income.

In violation of Title 26, United States Code, Section 7206(1).

**COUNT FORTY-FOUR**

**FALSE TAX RETURN -- 1999 M&D RETURN**

**THE GRAND JURY FURTHER CHARGES THAT:**

On or about April 5, 2001, in the Eastern District of Pennsylvania,  
defendant

**DENIS I. SHUSTERMAN**

willfully made and subscribed a United States Income Tax Return for S Corporation, Form 1120S, for the calendar year 1999, for M&D Consulting, Inc., 1601 Market Street, Suite 2400, Philadelphia, PA 19103, which was verified by a written declaration that it was made under the penalty of perjury and filed with the Internal Revenue Service, which defendant DENIS I. SHUSTERMAN did not believe to be true and correct as to every material matter, in that the return substantially underreported the gross receipts of M&D Consulting, Inc. and improperly deducted as business expenses expenditures which were actually for nondeductible personal purposes. Specifically, the return reported gross receipts of \$1,996,244, when the true receipts totaled in excess of \$2,300,000; and the return claimed total deductions of \$784,631, of which a portion was for nondeductible personal expenses.

In violation of Title 26, United States Code, Section 7206(1).

**COUNT FORTY-FIVE**

**FALSE TAX RETURN -- 1999 PERSONAL RETURN**

**THE GRAND JURY FURTHER CHARGES THAT:**

On or about February 6, 2003, in the Eastern District of Pennsylvania and elsewhere, defendant

**DENIS I. SHUSTERMAN**

willfully made and subscribed a United States Individual Income Tax Return, Form 1040, for the calendar year 1999, for himself and his wife, which was verified by a written declaration that it was made under the penalty of perjury and filed with the Internal Revenue Service, which defendant DENIS I. SHUSTERMAN did not believe to be true and correct as to every material matter, in that the return reported adjusted gross income of \$946,056, which was substantially less than the true amount which SHUSTERMAN received through his operation of M&D Consulting, Inc. and his other income.

In violation of Title 26, United States Code, Section 7206(1).

**COUNT FORTY-SIX**

**FALSE TAX RETURN -- 2000 M&D RETURN**

**THE GRAND JURY FURTHER CHARGES THAT:**

On or about June 17, 2002, in the Eastern District of Pennsylvania and elsewhere, defendant

**DENIS I. SHUSTERMAN**

willfully made and subscribed a United States Income Tax Return for S Corporation, Form 1120S, for the calendar year 2000, for M&D Consulting, Inc., 1601 Market Street, Suite 2400, Philadelphia, PA 19103, which was verified by a written declaration that it was made under the penalty of perjury and filed with the Internal Revenue Service, which defendant DENIS I. SHUSTERMAN did not believe to be true and correct as to every material matter, in that the return substantially misstated the gross receipts of M&D Consulting, Inc., improperly claimed as losses money which SHUSTERMAN spent on non-business ventures, and improperly deducted as business expenses expenditures which were actually for nondeductible personal purposes. Specifically, the return reported gross receipts of \$4,965,825, which differed substantially from the true receipts; the return claimed business losses of \$1,710,712, of which a portion was money spent on non-business ventures; and the return claimed total deductions of \$2,166,872, of which a portion was for nondeductible personal expenses.

In violation of Title 26, United States Code, Section 7206(1).

**COUNT FORTY-SEVEN**

**FALSE TAX RETURN -- 2000 PERSONAL RETURN**

**THE GRAND JURY FURTHER CHARGES THAT:**

On or about July 2, 2002, in the Eastern District of Pennsylvania and elsewhere, defendant

**DENIS I. SHUSTERMAN**

willfully made and subscribed a United States Individual Income Tax Return, Form 1040, for the calendar year 2000, for himself and his wife, which was verified by a written declaration that it was made under the penalty of perjury and filed with the Internal Revenue Service, which defendant DENIS I. SHUSTERMAN did not believe to be true and correct as to every material matter, in that the return reported adjusted gross income of \$907,102, which was substantially different from the true amount which SHUSTERMAN received through his operation of M&D Consulting, Inc. and his other income; and the return falsely claimed that SHUSTERMAN had previously paid \$125,000 in estimated tax payments for the 2000 calendar year, when in fact he had only paid \$25,000 in estimated tax payments for that year.

In violation of Title 26, United States Code, Section 7206(1).

**COUNT FORTY-EIGHT**

**FALSE TAX RETURN -- 2001 M&D RETURN**

**THE GRAND JURY FURTHER CHARGES THAT:**

On or about February 7, 2003, in the Eastern District of Pennsylvania and elsewhere, defendant

**DENIS I. SHUSTERMAN**

willfully made and subscribed a United States Income Tax Return for S Corporation, Form 1120S, for the calendar year 2001, for M&D Consulting, Inc., 1601 Market Street, Suite 2400, Philadelphia, PA 19103, which was verified by a written declaration that it was made under the penalty of perjury and filed with the Internal Revenue Service, which defendant DENIS I. SHUSTERMAN did not believe to be true and correct as to every material matter, in that the return substantially misstated the gross receipts of M&D Consulting, Inc., improperly claimed as losses money which SHUSTERMAN spent on non-business ventures, and improperly deducted as business expenses expenditures which were actually for nondeductible personal purposes. Specifically, the return reported gross receipts of \$4,276,591, which differed substantially from the true receipts; the return claimed business losses of \$408,803, of which a portion was money spent on non-business ventures; and the return claimed total deductions of \$2,625,775, of which a portion was for nondeductible personal expenses.

In violation of Title 26, United States Code, Section 7206(1).



**COUNT FORTY-NINE**

**FALSE STATEMENT TO IRS**

**THE GRAND JURY FURTHER CHARGES THAT:**

On or about February 5, 2003, in the Eastern District of Pennsylvania and elsewhere, defendant

**DENIS I. SHUSTERMAN**

did willfully aid and assist in, and procure, counsel, and advise the preparation and presentation to the Internal Revenue Service, in connection with a matter arising under the internal revenue laws, of a document which was false and fraudulent as to a material matter, that is, a letter from SHUSTERMAN's attorney to the Internal Revenue Service, sent from the attorney's office in West Conshohocken, Pennsylvania to the IRS in Chamblee, Georgia, which enclosed a copy of the Form 1040, U.S. Individual Income Tax Return for 1999 for SHUSTERMAN and his wife, and reported SHUSTERMAN's false statement that the return had been filed previously with the IRS.

In violation of Title 26, United States Code, Section 7206(2).

**COUNT FIFTY**

**FALSE STATEMENT TO IRS**

**THE GRAND JURY FURTHER CHARGES THAT:**

On or about March 13, 2003, in the Eastern District of Pennsylvania and elsewhere, defendant

**DENIS I. SHUSTERMAN**

did willfully aid and assist in, and procure, counsel, and advise the preparation and presentation to the Internal Revenue Service, in connection with a matter arising under the internal revenue laws, of a document which was false and fraudulent as to a material matter, that is, a letter from SHUSTERMAN's attorney to the Internal Revenue Service, sent from the attorney's office in West Conshohocken, Pennsylvania to the IRS in Philadelphia, Pennsylvania, which enclosed a copy of the Forms 1120S, U.S. Income Tax Return for an S Corporation, for 1997 and 1998 for M&D Consulting, Inc., and reported SHUSTERMAN's false statement that these 1997 and 1998 returns had been filed previously with the IRS.

In violation of Title 26, United States Code, Section 7206(2).

**COUNT FIFTY-ONE**

**FALSE STATEMENT TO IRS**

**THE GRAND JURY FURTHER CHARGES THAT:**

On or about March 13, 2003, in the Eastern District of Pennsylvania and elsewhere, defendant

**DENIS I. SHUSTERMAN**

did willfully aid and assist in, and procure, counsel, and advise the preparation and presentation to the Internal Revenue Service, in connection with a matter arising under the internal revenue laws, of a document which was false and fraudulent as to a material matter, that is, a letter from SHUSTERMAN's attorney to the Internal Revenue Service, sent from the attorney's office in West Conshohocken, Pennsylvania to the IRS in Philadelphia, Pennsylvania, which enclosed a copy of the Form 1040, U.S. Individual Income Tax Return for 1998 for SHUSTERMAN and his wife, and reported SHUSTERMAN's false statement that the return had been filed previously with the IRS.

In violation of Title 26, United States Code, Section 7206(2).

**NOTICE OF FORFEITURE -- WIRE FRAUD**

**THE GRAND JURY FURTHER CHARGES THAT:**

1. As a result of the violations of Title 18, United States Code, Section 1343, set forth in Counts Two, Three, and Thirteen through Thirty-Five of this indictment, defendant

**DENIS I. SHUSTERMAN**

shall forfeit to the United States of America any property, real or personal, that constitutes or is derived from proceeds traceable to the commission of such offenses, as charged in this indictment, including, but not limited to, the sum of \$8,500,000.

2. If any of the property subject to forfeiture, as a result of any act or omission of the defendant:

- (a) cannot be located upon the exercise of due diligence;
- (b) has been transferred or sold to, or deposited with, a third party;
- (c) has been placed beyond the jurisdiction of the Court;
- (d) has been substantially diminished in value; or
- (e) has been commingled with other property which cannot be divided without difficulty;

it is the intent of the United States, pursuant to Title 28, United States Code, Section 2461(c), incorporating Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of the defendant up to the value of the property subject to forfeiture.

All pursuant to Title 28, United States Code, Section 2461(c) and Title 18,  
United States Code, Section 981(a)(1)(C).

**NOTICE OF FORFEITURE -- BANK FRAUD**

1. As a result of the violation of Title 18, United States Code, Section 1344, set forth in Count Thirty-Eight of this indictment, defendant

**DENIS I. SHUSTERMAN**

shall forfeit to the United States of America any property that constitutes or is derived from proceeds obtained directly or indirectly from the commission of such offense, as charged in the indictment, including, but not limited to, any and all proceeds from the sale on or about January 15, 2004 of real property located at 17046 Circa Oriente, Rancho Santa Fe, California, including, but not limited to the sum of \$183,573.42.

2. If any of the property subject to forfeiture, as a result of any act or omission of the defendant:

- (a) cannot be located upon the exercise of due diligence;
- (b) has been transferred or sold to, or deposited with, a third party;
- (c) has been placed beyond the jurisdiction of the Court;
- (d) has been substantially diminished in value; or
- (e) has been commingled with other property which cannot be divided without difficulty;

it is the intent of the United States of America, pursuant to Title 18, United States Code, Section 982(b), incorporating Title 21, United States Code, Section 853(p), to seek

forfeiture of any other property of the defendant up to the value of the property subject to forfeiture.

All pursuant to Title 18, United States Code, Section 982(a)(2).

## **NOTICE OF ADDITIONAL FACTORS**

### **THE GRAND JURY FURTHER CHARGES THAT:**

1. In committing the offenses charged in Counts One through Thirty-Eight of this indictment, defendant DENIS I. SHUSTERMAN:

a. Caused a loss or attempted loss in excess of \$10 million, as described in U.S.S.G. § 2F1.1 (November 1, 2000) and U.S.S.G. § 2B1.1 (as amended through January 25, 2003);

b. Committed an offense which involved a misrepresentation and other fraudulent action during the course of a bankruptcy proceeding, as described in U.S.S.G. § 2F1.1(b)(4) (November 1, 1999) and U.S.S.G. § 2B1.1(b)(7) (as amended through January 25, 2003);

c. Abused a position of private trust and used a special skill in a manner that significantly facilitated the commission and concealment of the offense, as described in U.S.S.G. § 3B1.3; and

d. Committed an offense which involved more than minimal planning, and a scheme to defraud more than one victim, as described in U.S.S.G. § 2F1.1(b)(2) (November 1, 2000).

2. In committing the offenses charged in Counts Thirty-Nine through Fifty-One of this indictment, defendant DENIS I. SHUSTERMAN:



a. Caused a tax loss and attempted tax loss of more than \$1 million,  
as described in U.S.S.G. §§ 2T1.1 and 2T4.1; and

b. Failed to report and correctly identify the source of income  
exceeding \$10,000 in any year from criminal activity, as described in U.S.S.G.  
§ 2T1.1(b)(1).

**A TRUE BILL:**

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**GRAND JURY FOREPERSON**

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**PATRICK L. MEEHAN  
UNITED STATES ATTORNEY**